



# COMMONWEALTH of VIRGINIA

DEPARTMENT OF ENVIRONMENTAL QUALITY

W. Tayloe Murphy, Jr.  
Secretary of Natural Resources

**PIEDMONT REGIONAL OFFICE**

4949-A Cox Road  
Glen Allen, Virginia 23060  
(804) 527-5020  
Fax (804) 527-5106  
[www.deq.state.va.us](http://www.deq.state.va.us)

Robert G. Burnley  
Director

Gerard Seeley, Jr.  
Piedmont Regional Director

## STATE WATER CONTROL BOARD ENFORCEMENT ACTION SPECIAL ORDER BY CONSENT ISSUED TO NATIONAL STARCH AND CHEMICAL COMPANY

### **SECTION A: Purpose**

This is a Consent Special Order issued under the authority of Va. Code §§ 10.1-1185 and 62.1-44.15(8a) and (8d), between the State Water Control Board and the National Starch and Chemical Company, for the purpose of resolving certain violations of environmental law and regulations.

### **SECTION B: Definitions**

Unless the context clearly indicates otherwise, the following words and terms have the meaning assigned to them below:

1. "Va. Code" means the Code of Virginia (1950), as amended.
2. "Board" means the State Water Control Board, a permanent citizens' board of the Commonwealth of Virginia as described in Va. Code §§ 10.1-1184 and 62.1-44.7.
3. "Department" or "DEQ" means the Department of Environmental Quality, an agency of the Commonwealth of Virginia as described in Va. Code § 10.1-1183.
4. "Director" means the Director of the Department of Environmental Quality.
5. "Order" means this document, also known as a Consent Special Order.
6. "National Starch" means the National Starch and Chemical Company.

7. "Facility" means the National Starch and Chemical Company facility at 4414 Sarellen Road in Henrico County, Virginia.
8. "PRO" means the Piedmont Regional Office of DEQ, located in Glen Allen, Virginia.

#### **SECTION C: Findings of Fact and Conclusions of Law**

1. On June 22, 2004, the Department responded with personnel from Henrico County to a report of a discharge of milky white substance into the storm sewer system on Sarellen Road. The discharge was determined to have come from the National Starch and Chemical facility located at 4414 Sarellen Road.
2. The Facility discharges wash water from its production area into the sanitary sewer system, but does not currently have a pretreatment permit. This wash water contains non-hazardous residue from adhesive tanks. Representatives from the County confirmed that there was a buildup of material in sanitary sewer connection, causing the wash water to overflow into a nearby storm drain.
3. The Facility immediately hired a contractor; however, the discharge was able to migrate to a small creek. This creek is an unnamed tributary of Cornelius Creek and is not monitored by the Department.
4. On July 30, 2004, a Notice of Violation (NOV # 04-07-PRO-201) was issued to National Starch for causing an unpermitted discharge and for failure to notify DEQ of the discharge, pursuant to §62.1-44.5 (A) and (B) of the Code of Virginia. §62.1-44.5 (A) prohibits waste discharges into state waters except as authorized by permit. §62.1-44.5 (B) requires anyone who causes such unpermitted discharge to state waters to immediately notify the Board, the Director of the Department of Environmental Quality, or the coordinator of emergency services for the locality. National Starch did not have a permit to discharge to state waters, nor did it notify any of the parties required under §62.1-44.5 (B).
5. A meeting between DEQ and National Starch was held on September 1, 2004. National Starch demonstrated that it has taken necessary corrective measures to prevent further occurrences of this kind, including:
  - Installing high level alarms on wash water sumps.
  - Increasing clean-out frequencies on sumps.
  - Installing and maintaining additional spill control materials.

#### **SECTION D: Agreement and Order**

Accordingly, the Board, by virtue of the authority granted it in Va. Code § 62.1-44.15(8a) and (8d), and § 62.1-44.5 (11), orders National Starch, and National Starch voluntarily agrees to pay a civil charge of \$7,000 within 30 days of the effective date of the Order in settlement of the

violations cited in this Order and \$150 to reimburse the Board's response costs within 30 days of the effective date of this Order. These charges shall be paid separately; each payment shall note that it is being made pursuant to this Order, shall specify whether the payment is settlement of the civil charge or reimbursement of response costs, and shall note the Federal Identification Number for National Starch. Payment shall be by check, certified check, money order, or cashier's check payable to "Treasurer of Virginia" and sent to:

Receipts Control  
Department of Environmental Quality  
Post Office Box 10150  
Richmond, Virginia 23240

**SECTION E: Administrative Provisions**

1. The Board may modify, rewrite, or amend the Order with the consent of National Starch, for good cause shown by National Starch, or on its own motion after notice and opportunity to be heard.
2. This Order only addresses and resolves those violations specifically identified herein, including those matters addressed in the Notice of Violation issued to National Starch by DEQ on July 30, 2004. This Order shall not preclude the Board or the Director from taking any action authorized by law, including but not limited to: (1) taking any action authorized by law regarding any additional, subsequent, or subsequently discovered violations; (2) seeking subsequent remediation of the Facility as may be authorized by law; or (3) taking subsequent action to enforce the Order. This Order shall not preclude appropriate enforcement actions by other federal, state, or local regulatory authorities for matters not addressed herein.
3. For purposes of this Order and subsequent actions with respect to this Order, National Starch admits the jurisdictional allegations, factual findings, and conclusions of law contained herein.
4. National Starch consents to venue in the Circuit Court of the City of Richmond for any civil action taken to enforce the terms of this Order.
5. National Starch declares it has received fair and due process under the Administrative Process Act, Va. Code §§ 2.2-4000 *et seq.*, and the State Water Control Law and it waives the right to any hearing or other administrative proceeding authorized or required by law or regulation, and to any judicial review of any issue of fact or law contained herein. Nothing herein shall be construed as a waiver of the right to any administrative proceeding for, or to judicial review of, any action taken by the Board to enforce this Order.
6. Failure by National Starch to comply with any of the terms of this Order shall constitute a violation of an order of the Board. Nothing herein shall waive the

initiation of appropriate enforcement actions or the issuance of additional orders as appropriate by the Board or the Director as a result of such violations. Nothing herein shall affect appropriate enforcement actions by any other federal, state, or local regulatory authority.

7. If any provision of this Order is found to be unenforceable for any reason, the remainder of the Order shall remain in full force and effect.
8. National Starch shall be responsible for failure to comply with any of the terms and conditions of this Order unless compliance is made impossible by earthquake, flood, other acts of God, war, strike, or such other occurrence. National Starch shall show that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. National Starch shall notify the DEQ Regional Director in writing when circumstances are anticipated to occur, are occurring, or have occurred that may delay compliance or cause noncompliance with any requirement of the Order. Such notice shall set forth:
  - a. the reasons for the delay or noncompliance;
  - b. the projected duration of any such delay or noncompliance;
  - c. the measures taken and to be taken to prevent or minimize such delay or noncompliance; and
  - d. the timetable by which such measures will be implemented and the date full compliance will be achieved.

Failure to so notify the Regional Director within 24 hours of learning of any condition above, which National Starch intends to assert will result in the impossibility of compliance, shall constitute a waiver of any claim to inability to comply with a requirement of this Order.

9. This Order is binding on the parties hereto, their successors in interest, designees and assigns, jointly and severally.
10. This Order shall become effective upon execution by both the Director or his designee and National Starch. Notwithstanding the foregoing, National Starch agrees to be bound by any compliance date which precedes the effective date of this Order.
11. This Order shall continue in effect until National Starch petitions the Director or his designee to terminate the Order after it has completed all of the requirements of the Order and the Director or his designee approves the termination of the Order. Termination of this Order, or of any obligation imposed in this Order, shall not operate to relieve National Starch from its obligation to comply with any

statute, regulation, permit condition, other order, certificate, certification, standard, or requirement otherwise applicable.

12. By its signature below, National Starch voluntarily agrees to the issuance of this Order.

And it is so ORDERED this 3<sup>rd</sup> day of December, 2004.

Robert G. Burnley Jr. (for)  
Robert G. Burnley, Director  
Department of Environmental Quality

National Starch voluntarily agrees to the issuance of this Order

By: [Signature]  
Date: 11/4/2004

South Carolina ~~Commonwealth of Virginia~~  
City/County of Spartanburg

The foregoing document was signed and acknowledged before me this 4 day of Nov., 2004, by George A. Arabea, who is  
(name)

Dir - WBA Mfg. of National Starch, on behalf of National Starch.  
(title)

[Signature]  
Notary Public

My commission expires: Oct. 9, 2012